

# MIKE BUMCROT CONSULTING

## REPORT OF INVESTIGATION

**DATE:** January 3, 2016

**SUBJECT:** Officer Involved Shooting Death of Vicente Robert Martinez, which Occurred on November 18, 2014 at 1431 Hours

**CASE:** Riverside Police Department File #P14-175586, CPRC #14-036

**LOCATION:** 10479 Keller Avenue, Riverside

On December 29, 2015, I was asked by Frank Hauptmann, Manager of the Community Police Review Commission, to review the circumstances surrounding the officer involved shooting death of Vicente Martinez by members of the Riverside Police Department. I was also asked to provide my expert opinion in a written report on the manner in which the case was investigated by the Riverside Police Department. I received several hundred pages of police reports, photographs, audio recordings, and other documents contained in the presentation by Riverside Police Department to the Riverside Community Police Review Commission. I also reviewed legal issues, as well as officer involved shooting research conducted by Dr. Bill Lewinski of the Force Science Research Center.

It is my conclusion that Officer Marco Ortiz acted in lawful self defense and in defense of his partner, Officer Jeffrey Adcox at the time he fired his semi-automatic pistol. See Conclusion Section.

The following analysis is based on reports prepared by the Riverside Police Department, statements from Officers Ortiz and Adcox, as well as witness officers who provided statements. It should be noted that no civilians witnessed the actual shooting



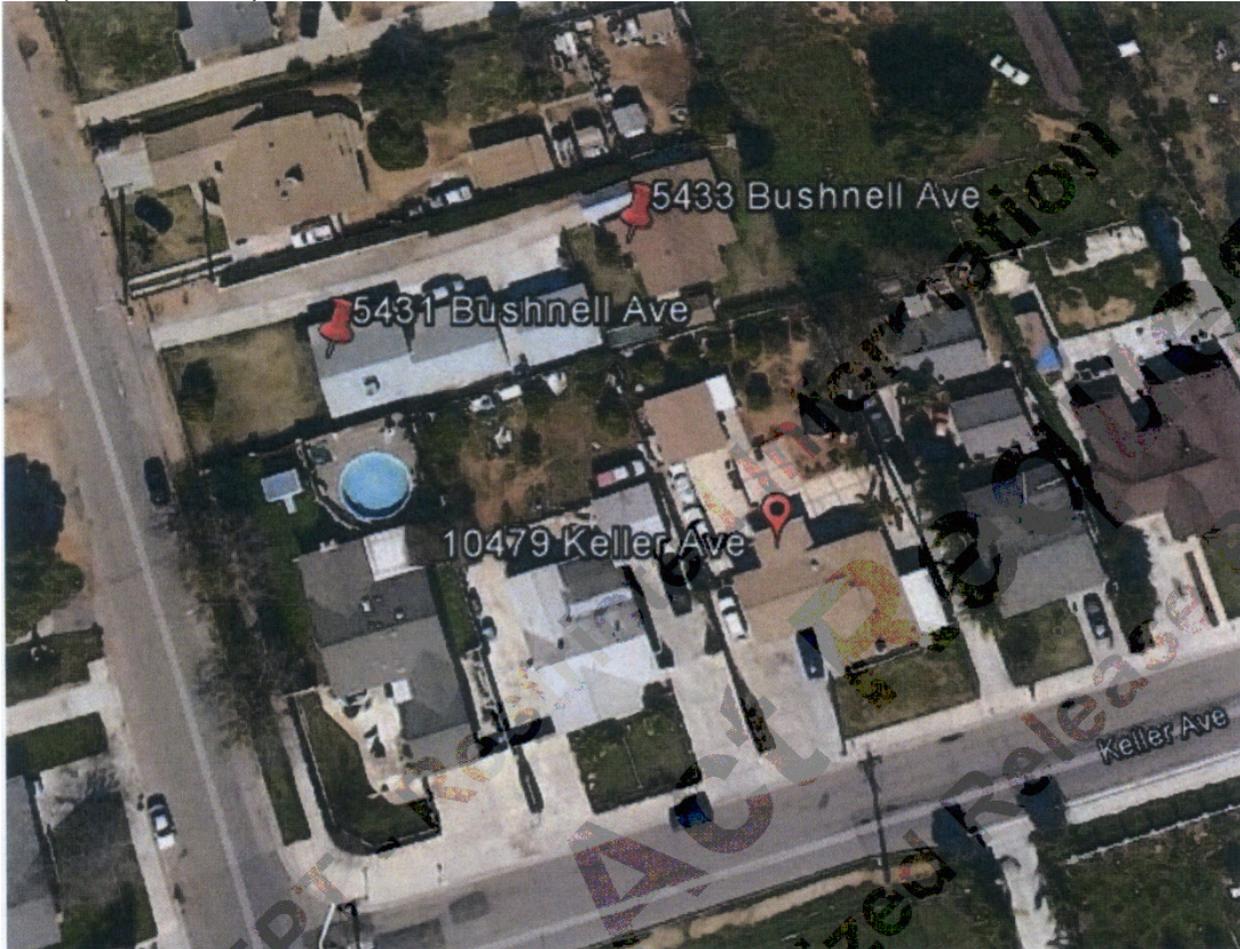
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which was not surprising because the actual incident occurred in a back yard after a foot pursuit. See photo below:



## FACTUAL ANALYSIS

On November 18, 2014, Officers Marco Ortiz and Jeffrey Adcox were in their office, which houses the Post Release And Accountability and Compliance Team (PACT). This team is a multi-department task force that conducts compliance checks of persons



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on parole, probation, mandatory supervision, supervised release, and post release community supervision.

Narcotics Detective Eric Detmer entered the PACT office and stated that he had received information from a citizen informant that Vicente Martinez was selling and using methamphetamine and was in possession of a handgun. Detective Detmer asked for the assistance of the PACT team in surveilling Mr. Martinez and provided them with a photograph of Mr. Martinez, as well as information on his vehicle and criminal background.

Undercover narcotics officers drove to Mr. Martinez' residence at 5433 Bushnell Ave., Riverside, and observed his vehicle, a 2014 Nissan pickup truck to not be at the location. As the narcotics detectives set up a surveillance on Mr. Martinez' house, PACT team members responded to the area to assist detectives as needed. It was determined that if a traffic stop was warranted, Officers Ortiz and Adcox would be the primary unit and Officers Daniel Mercadefe and Christina Arangure would be their backup. It should be noted that all of the officers were driving unmarked police vehicles with a push bar in front, spotlights, and red light to the front. All officers were dressed in a Riverside Police Department uniform with police shoulder patches, police badge, body armor, and web gear. As Officers Ortiz and Adcox drove around the area, they observed Mr. Martinez as he was failing to come to a complete stop at the 4 way stop sign at Keller Ave. and Jones Ave., a violation of Section 22450 (a) of the California Vehicle Code.

Officer Ortiz drove behind Mr. Martinez and activated his vehicles forward facing red light. When Mr. Martinez failed to yield, Officer Ortiz activated his siren and Mr. Martinez continued to drive, pointing his finger out his driver's window. Officers Mercadefe and Arangure pulled their vehicle behind Officers Ortiz and Adcox and, they too, activated their forward facing red light and siren.

Mr. Martinez continued to drive in what officers would later describe as a low speed pursuit. He continued a few blocks to his residence, which was at the end of a long driveway behind another house.



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As Mr. Martinez turned into his long driveway, he rapidly accelerated to the end and stopped with the 2 unmarked police vehicles behind him. See attached photos below:



P14175586SMD: EBI56696



P14175586SMD: EBI56697

Mr. Martinez immediately exited his vehicle and faced the officers with his hands raised. He was ordered to get down on the ground but instead he began to walk backwards away from the police. He then turned to his left and began to run through the yard, with Officers Ortiz and Adcox chasing him on foot.

Mr. Martinez ran to a chain link fence, which separated his residence and the back yard of 10479 Keller Ave. See attached photos below:



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P14175586SMD: EBI56712



P14175586SMD: EBI56713

As he began to climb the fence, Mr. Martinez fell into the back yard of the Keller Ave. address. Officers Ortiz and Adcox ran up to the fence and ordered Mr. Martinez to remain on the ground. Instead, he got up and continued running towards the Keller Ave. residence.

Officers Ortiz and Adcox holstered their pistols and jumped the fence, continuing the chase. After running about fifty feet, Officer Ortiz observed Mr. Martinez turn towards the officers, holding a black semi-automatic handgun in his right hand and point the weapon at them. Officer Ortiz drew his pistol and fired eight shots, striking Mr. Martinez



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and causing him to fall to the ground. Officers Mercadefe and Arangure arrived on scene and first aid was applied to Mr. Martinez until paramedics arrived. He was declared dead by Riverside Fire Department personnel.

The firearm in the possession of Mr. Martinez was found about thirty-four feet from him. The handgun was loaded with eleven bullets in the magazine and no bullet in the chamber. The weapon was discovered to have been stolen from a residence in Murrieta in 2011. See attached photos below:



P14175586SMD: EBI56730



P14175586SMD: EBI56731

## EXPERT QUALIFICATIONS

I was employed as a peace officer for the Los Angeles Sheriff's Department for 34 years. I worked as a jail deputy, 18 months as a patrol officer, and four years assigned to the Special Enforcement Bureau (SWAT team). My last 27 years on the department, I was assigned to the Detective Division, including over 22 years assigned to the



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Homicide Bureau. I investigated over 450 homicides and suspicious deaths and over 100 Officer Involved Shootings, including the murders of ten police officers.

In 1994, I assisted in writing the LASD Homicide Bureau Investigative Manual. I was also selected to be a member of the Joint LASD/LAPD Crime Lab Development Committee as well as the JET Committee to develop Homicide Bureau job standards and selection criteria. In 1995, I was selected as California's Deputy Sheriff of the Year by the California Organization of Police and Sheriffs (COPS) for the investigation, arrest, and conviction of a suspect in the murders of two local policemen.

For over 15 years, I have taught "High Profile Murder Investigations", "Homicide Scene Management", and Officer Involved Shooting Investigations" for the Robert Presley Institute of Criminal Investigation, police academies, advanced training classes, supervisor training, college classes, Homicide School, and in-service training. I am currently on staff with the Police Policy Studies Council where I teach and consult nationally on officer involved shooting, homicide, and suspicious death investigations. I am currently the investigator for the Riverside Police Review Commission. Although I retired from LASD in 2002, I was immediately signed to a contract to train newly assigned homicide detectives. In 2006, I was also assigned to the LASD Cold Case team where I have reviewed over one thousand unsolved murders and specifically work the unsolved DNA and latent print cases.

## **INVESTIGATION AND REVIEW**

The investigation into the officer involved shooting death of Vicente Martinez was conducted by the Riverside Police Department and the Riverside County District Attorney's Office. I reviewed all the reports and photographs submitted to the Community Police Review Commission and researched deadly force legal issues, as well as studies completed by the Force Science Research Center. The District Attorney found there was no criminal liability.



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## LEGAL ANALYSIS

California law provides that the use of deadly force in self defense and defense of another if it reasonably appears to the person claiming the right to use such force that he actually and reasonably believed that he or another person was in imminent danger of great bodily injury or death. People v. Williams (1977) 75 Cal App. 3<sup>rd</sup> 731

The use of deadly force in self defense or in defense of others is justifiable if the person claiming the right of self defense actually and reasonable believed (1) that he or the person he was defending was in imminent danger of being killed or suffering great bodily injury, (2) that the immediate use of force was necessary to defend against that danger, and (3) that he used no more force than was reasonably necessary to defend against that danger. CALCRIM No. 505

In protecting himself or another, a person may use all force, which he believes reasonably necessary which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury, which appears to be imminent. CALCRIM No. 3470

When the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v. Collins (1961) 89 Cal. App. 2d 575, 589.

## CONCLUSION

The review of reports and the evidence examined in this case reveals that Vicente Martinez was apparently involved in the use and transportation of illegal drugs, while armed with a stolen handgun. Narcotics Detective Eric Detmer received information from a citizen informant that Mr. Martinez was “using a lot of speed” and was selling narcotics “while armed with a gun in his right front pants pocket”.

Detective Detmer made a tactical decision to ask for assistance of the PACT Team, a squad of officers experienced in dealing with persons on parole or supervised probation.



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All of Mr. Martinez' criminal past was redacted. In fact, in Tab 3, the initial report written by Detective Dave Smith, I noted that one of the charges listed was 29800 (a) (1) P.C., felon in possession of a firearm.

When officers responded to the area of Mr. Martinez' residence, Officers Ortiz and Adcox observed Mr. Martinez fail to come to a complete stop at a four way stop sign, in violation of the California Vehicle Code. Officer Ortiz activated his vehicle's forward facing red light and saw Mr. Martinez looking at him in his side view mirror and stick his arm out his open window and point ahead, indicating he was looking for a safe place to pull over. Officer Ortiz activated his siren but there was no attempt to stop the "slow speed pursuit".

Mr. Martinez accelerated to the end of his long drive way, got out of his vehicle and placed his hands in the air, indicating he was aware the police were following him. Ignoring commands to "get on the ground", Mr. Martinez ran from officers, "diving" over a chain link fence and again ignored commands to "stay on the ground". Mr. Martinez continued to run towards the residence at 10479 Keller Ave. when he suddenly turned towards the officers, holding a semi-automatic handgun in his right hand. Officer Ortiz said that Mr. Martinez tripped and appeared to be confused having two different targets presented to him. Before Mr. Martinez could decide which officer to engage, Officer Ortiz drew his weapon and fired, knocking Mr. Martinez to the ground. Officer Ortiz would later say that he was briefed that Mr. Martinez "was a convicted felon with a violent history" and the weapon looked like "a giant black handgun".

He also said that as Mr. Martinez was falling, his body was turning away and he was still holding the gun in his hand. As Officer Ortiz approached the wounded Mr. Martinez, he saw the handgun on the ground, some distance away and "I'm assuming that when he fell, that the gun went flying out of his hand, or as he was turning, the gun went flying out of his hand".

Officer Ortiz said that because of his prior briefing about Mr. Martinez, "I assumed he had a gun". When asked if he could see Mr. Martinez actually pulling the trigger on his



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handgun, Officer Ortiz answered, "I didn't notice that, I just saw a big black handgun. I believe this guy was going to shoot at me or my partner and I was doing it to protect my life and his." When asked why he stopped shooting, Officer Ortiz said, "Because the threat had stopped".

Officer Jeffrey Adcox would later tell detectives that after Mr. Martinez jumped over the chain link fence, his view was partially obscured by trees or bushes but suddenly saw Mr. Martinez standing near the front of a garage type structure. Mr. Martinez was pointing a black semi-automatic handgun at him. Before he could draw his own weapon, he heard seven to eight gunshots from Officer Ortiz' position. He saw several bullets impact Mr. Martinez as well as impacts in the dirt near where Mr. Martinez fell on his stomach, left hand pinned under his body and right arm outstretched near his head. Officer Adcox said "I saw the suspect with a gun when he went down, when he fell I don't know where the gun went. I think Tony said he tossed the gun or the gun flew out of his hands. I can't really remember." He also said if his partner hadn't shot Mr. Martinez, one of the officers could have ended up being shot.

Detectives also interviewed Mr. Martinez' wife, Tamara Luna. She said that she has known Mr. Martinez since she was 15 years old and they have a 17-year-old daughter together. She said Mr. Martinez was not good to her and they were apart for several years while he was in prison. She acknowledged that Mr. Martinez was a La Sierra Brown Knights gang member with all the prerequisite tattoos. She said when Mr. Martinez got out of prison he seemed to have changed. They began living together about 1 ½ years ago and got married about 6 months ago. About 2 weeks before they were married, she caught him using "speed". She continued finding drugs, glass pipes, and plastic Baggies. She has seen him with golf ball size amounts of drugs in Baggies. Lately Mr. Martinez has been leaving for days without telling her of his whereabouts. A couple of weeks ago, Mr. Martinez showed her a black semi-automatic handgun he said he was carrying.

The day of the shooting she left the house about 1215 to pick up her daughter. Mr. Martinez was asleep on the couch and she could see the outline of a handgun in his right front pants pocket. She picked up her daughter and was taking her to the doctor.



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She received a telephone call from Mr. Martinez at 1429 and they talked for 2 minutes and 3 seconds. The call ended when Mr. Martinez advised her he was about to get stopped and he hung up on her. She was driving on Arlington Ave. and saw a police car driving fast with its emergency lights on and thought they were going after Mr. Martinez.

I reviewed the autopsy protocol and learned that Mr. Martinez was struck 5 times out of the eight shots fired. The strikes were:

1. Gunshot wound to left hip, front to back, left to right, and up
2. Gunshot wound to left hip, left to right, slightly back to front, and up
3. Gunshot wound to medial back, left to right, back to front, and up
4. Gunshot wound to lateral back, left to right, back to front, and up
5. Gunshot wound to right upper arm, back to front, and down

It should not go unnoticed that the toxicology report indicated that marijuana, amphetamine, and methamphetamine were detected in Mr. Martinez' body. Also at the time of autopsy a Baggie containing 15 grams of methamphetamine was recovered in his right, front pants pocket.

My training and experience suggests that the first bullet to strike Mr. Martinez was gunshot wound #1, which would cause a dynamic rotation of his body as he was falling to the ground. The remaining bullet strikes were back to front while falling. This dynamic rotation could also account for Mr. Martinez' weapon being recovered thirty-four feet from his outstretched hand.

An interesting side note is that a latent fingerprint was recovered from Mr. Martinez' handgun. This fingerprint did not belong to Mr. Martinez or any police officers at the scene. A check with Automated Fingerprint Identification System (AFIS) was unsuccessful.

I find that this officer involved shooting was in lawful self defense and the investigation into the shooting death of Vicente Martinez was completed in a fair and impartial manner and met or exceeded POST standards of practice.



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